

REMARKS

I. Amendments

By this amendment, claims 1, 24, 25 and 37 have been amended.

No amendment of inventorship is necessitated by this amendment.

II. Discussion of the Rejection under 35 U.S.C. Sec. 112, First Paragraph

Claim 37 has been rejected under 35 U.S.C. Sec. 112, first paragraph, as allegedly lacking enablement in the recitation of “preventing or”.

To expedite prosecution, Applicants have deleted “preventing or” from claim 37.

Therefore Applicants respectfully request withdrawal of the 35 U.S.C. Sec. 112, first paragraph rejection.

III. Discussion of Allowable Subject Matter

The Examiner has indicated the allowability of claim 23 if re-written as an independent claim. Applicants respectfully request that the Examiner review the pending claims, as claim 23 is directed to pro-drugs of compounds of claim 1.

Moreover, claim 23 is currently listed as objected to as being drawn to an improper Markush group.

Did the Examiner make a typographical error such that a claim other than claim 23 is actually the one which she believes is presently allowable? Clarification is respectfully requested.

IV. Discussion of the Non-Statutory Double Patenting Rejection

Claims 1-6 and 10-18 have been rejected under the judicially-created doctrine of double patenting over claims of U.S. Patent No. 6,654,476. Applicants respectfully traverse the rejection.

The '476 patent is entitled "Low Cost Broad Range Loudspeaker and System".

Applicants do not believe that there is any issue regarding double patenting with respect to the '476 reference.

Rather, Applicants believe that the Examiner intended to make the rejection over U.S. Patent No. 6,653,476. Accordingly, a Terminal Disclaimer over the '476 patent accompanies this response.

Therefore Applicants respectfully request withdrawal of the non-statutory double patenting rejection.

V. Discussion of the Rejection under 35 U.S.C. Sec. 112, Second Paragraph

Claims 24 and 25 have been rejected under 35 U.S.C. Sec. 112, second paragraph, as allegedly being indefinite in the recitation of a "general formula". Applicants respectfully traverse the rejection.

Applicants disagree that the use of this term renders the claims indefinite, as there are many issued patents containing this phrase in their claims. The phrase is commonly used and understood by those skilled in the art. However, to expedite prosecution, Applicants have deleted the term "general" from claims 24 and 25.

Therefore Applicants respectfully request withdrawal of the 35 U.S.C. Sec. 112, second paragraph rejection.

VI. Discussion of the Restriction Requirement

The previous restriction requirement mailed December 16, 2004 was based on the definition of ring B. In the response of January 13, 2005, Applicants argued that ring B should not be the basis for differentiation. The Examiner made no comment on whether or not she was persuaded by the argument, or whether the restriction requirement was made final in the comment of the present Office Action. It seems that instead restriction based on limitation of U.S. Patent Application Serial No. 10/662,165

the definition of R's Markush group has been made, as certain claims appear to have been withdrawn based on their definition of R. Should further amendment to the claims be required on the basis of the December 16, 2004 restriction requirement (particularly with respect to B), the Examiner is respectfully requested to so state for the record.

VII. Discussion of the Objection for Improper Markush Groups

Claims 1-6, 10-18, 23-25 and 37 have been objected to for allegedly reciting improper Markush groups. Applicants respectfully traverse the rejection.

The rejection appears to be a restriction based on Markush claims according to MPEP 803.02 which seems to have been imposed by the Examiner in place of the previous restriction requirement. Clarification is requested.

If the restriction requirement was made under MPEP Sec. 803.02, Applicants do not believe that they are required to amend the claims to limit the definition of R at this point. This is so because page 800-5 of the MPEP indicates that if no prior art is found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended.

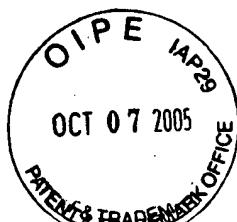
As the Examiner has indicated that there are no art rejections when R is an optionally substituted heterocyclic group, it seems that the Examiner should now also search for art against compounds of the formula (I) wherein R is an optionally substituted amino group.

Should no art be found against compounds of formula (I) wherein R is an optionally substituted amino group, reconsideration and rejoinder of the withdrawn claims is requested.

Therefore, Applicants respectfully request reconsideration of the objection for improper Markush groups.

Applicants wish to point out to the Examiner that withdrawn claims 19, 21 and 22 recite compounds which are within the Examiner's current definition of the examined subject matter as stated at point 6 on page 3 of the Office Action. In claim 19, the first compound (which is Example 13), the fifth compound (which is Example 33), the seventh compound (which is Example 42), and the eighth compound (which is Example 45) all have R of an optionally substituted heterocyclic group. In claim 21, the second compound (which is Example 41) has R of an optionally substituted heterocyclic group. In claim 22, the first compound (which is Example 32), the second compound (which is Example 79) and the third compound (which is Example 92) all have R of an optionally substituted heterocyclic group. Reconsideration and rejoinder of claims 19, 21 and 22 is respectfully requested.

VIII. Conclusion



Reconsideration of the pending claims as amended and allowance is requested.

Should the Examiner believe that a conference with Applicants' attorney would advance prosecution of this application, the Examiner is respectfully requested to call Applicants' attorney at (847) 383-3391.

Respectfully submitted,

Dated: October 7, 2005

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